IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 21462 of 2007(E)

FIR 19 OF 2006 OF HARBOUR POLICE STATION, KOCHI

PETITIONER:

M/S. VIDYUT METALLICS PVT. LTD.,
HALCYON, 27/3152, C/D/E MAIN AVENUE,
PANAMPILLY NAGAR, ERNAKULAM-20, REPRESENTED BY
ITS BRANCH MANAGER/DEPOT. INCHARGE,
SHRI KRISHNA SWAMY R.

BY ADV. SRI.A.KUMAR

RESPONDENTS:

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1. THE CENTRAL BUREAU OF INVESTIGATION,
NEW DELHI, REPRESENTED BY ITS DIRECTOR.

2. THE STATION OFFICER,
HABOUR POLICE STATION, KOCHI CITY.

3. CIRCLE INSPECTOR OF POLICE,
COCHIN.

4. GUNJAN IMPEX, HUP,
21 B, B.R.B.B.ROAD, (CANNING STREET),
KOLKATA, W.B., PIN-700 001.

5. ASHOK MISHRA, S/O. LATE YADU NATH
MISHRA, 4, ABHOY MITRA STREET, KOLKATA,
W.B., PIN-700 005.

6. GAYATRI MISHRA, W/O. ASHOK MISHRA,
4, ABHOY MITRA STREET, KOLKATA, W.B.,
PIN-700 005.

7. SANJAY KUMAR MISHRA, S/O. ASHOK MISHRA,
4, ABHOY MITRA STREET, KOLKATA, W.B.,
PIN-700 005.

8. THE STATE OF KERALA, REPRESENTED BY
SECRETARY, MINISTRY OF HOME, GOVT. SECRETARIAT,
TRIVANDRUM.

9. THE DIRECTOR GENERAL OF POLICE,
TRIVANDRUM.

R2, 3, 8 & 9 BY GOVERNMENT PLEADER SRI. GIKKU JACOB
R1 BY ADV. SRI.S.SREEKUMAR, SC FOR CBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 21462 of 2007 E

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Dated this the 26th day of October, 2007

JUDGMENT

The petitioner herein is the defacto complainant in a crime registered for offences punishable, inter alia, under Sections 468 I.P.C., Section 63 of the Copyright Act and Sections 103 and 104 of the Trade Marks Act. Four persons are shown as accused.

2. The crux of the allegations is that the accused persons fraudulently imported and caused to be imported super max stainless steel blades in the brand name of the complainant and imported the same in a container at the Cochin Port. The crime was registered on the basis of a complaint filed before the learned Magistrate, which the learned Magistrate referred to the police under Section 156(3) Cr.P.C. The crime was registered as early as on 17.1.2006. The grievance of the petitioner is that no proper or effective investigation is being conducted and that the present investigators lack the necessary infrastructure and facilities to conduct a proper investigation into the crime. The alleged crime has national and international overtones

and a proper, effective and efficient investigation can be conducted only if the investigation is handed over to the first respondent, i.e. the Central Bureau of Investigation.

2. The learned Prosecutor took notice for respondents 2, 3, 8 and 9 A statement has been filed by the third respondent on behalf of all the respondents, in which the want of necessary infrastructure is virtually accepted. The learned Prosecutor also submits that the entrustment of the investigation to the first respondent shall facilitate a better, proper and effective investigation. Considering the nature of the crime, such investigation by a central specialised agency is necessary, submits the learned counsel as well as the learned Prosecutor.

3. Notice was given to the standing counsel for the C.B.I. The learned standing counsel does not join the issue on the desirability of the investigation being entrusted to more competent and central agency which has the necessary infrastructure, but submits that the C.B.I., which is already over burdened with work, does not have adequate resources and facilities to deploy men and materials for such an investigation. That explanation will not be sufficient for this Court not to grant the relief.

4. In the nature of the facts and circumstances of this case, I have no hesitation to agree that the investigation by the local police may not succeed in bringing out truth regarding the allegations and it is necessary that the first respondent is requested to take over the investigation.

5. The learned standing counsel requests that in that event, it may be specifically directed that the State Government must make available to the first respondent necessary assistance, facilities etc. Needless to say, the same has got to be done by respondents 8 and 9.

6. This Writ Petition is accordingly allowed. It is directed that the first respondent shall conduct the investigation into Crime No. 19 of 2006 of Harbour Police Station, Kochi. Respondents 8 and 9 are directed specifically to make the necessary facilities and convenience available for the first respondent.

(R. BASANT)
Judge

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